



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2014-0096]

RIN 1625- AA08

Special Local Regulation; Charleston Race Week, Charleston Harbor; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a special local regulation on the waters of Charleston Harbor in Charleston, South Carolina during Charleston Race Week, a series of sailboat races. The races are scheduled to take place on April 11, 2014 through April 13, 2014. Approximately 300 sailboats are anticipated to participate in the races. The special local regulation is necessary to provide for the safety of life on the navigable waters of the United States during the races. The special local regulation consists of three race areas. Except for those persons and vessels participating in the sailboat races, persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the race areas unless authorized by the Captain of the Port

Charleston or a designated representative.

DATES: This rule is effective on April 11, 2014 through April 13, 2014. This rule will be enforced daily from 9 a.m. until 4:30 p.m.

ADDRESSES: Documents indicated in this preamble are part of docket USCG-2014-0096. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "Search." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Warrant Officer Christopher Ruleman, telephone (843) 740-3184, e-mail [Christopher.L.Ruleman@uscg.mil](mailto:Christopher.L.Ruleman@uscg.mil). If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive necessary information about the event until February 4, 2014. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to the race participants, participant vessels, spectators, and the general public.

Under [5 U.S.C. 553\(d\)\(3\)](#), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the Federal Register. Delaying the effective date for this special local regulation is contrary to the public interest because immediate action is needed to

minimize potential danger to the race participants, participant vessels, spectators, and the general public.

#### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during three Charleston Race Week sailboat races.

#### C. Discussion of the Final Rule

From April 11, 2014 through April 13, 2014, Charleston Ocean Racing Association will host three sailboat races on Charleston Harbor in Charleston, South Carolina during Charleston Race Week. Approximately 300 sailboats will be participating in the three races.

The rule establishes a special local regulation on certain waters of Charleston Harbor in Charleston, South Carolina. The special local regulation will be enforced daily from 9 a.m. until 4:30 p.m. on April 11, 2014 through April 13, 2014. The special local regulation consists of the following three race areas.

1. Race Area #1. All waters encompassed within an 800 yard radius of position 32°46'23"N, 79°55'11"W.
2. Race Area #2. All waters encompassed within a 900 yard radius of position 32°45'54"N, 79°54'41"W.

3. Race Area #3. All waters encompassed within a 900 yard radius of position 32°46'09"N, 79°53'52"W.

Except for those persons and vessels participating in the sailboat races, persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the race areas unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the race areas may contact the Captain of the Port Charleston by telephone at (843)740-7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the race areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement periods; (2) persons and vessels may still enter, transit through, anchor in, or remain within the regulated areas if authorized by the Captain of the Port Charleston or a designated representative; and (3) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during

rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within the waters of Charleston Harbor encompassed within the three regulated areas between 9 a.m. and 4:30 p.m., from April 11, 2014 through April 13, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of



protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INTFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the

National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. Because this regulation is substantially unchanged from the regulation issued when the prior determination was made and there have been no new developments relevant to that determination, we have not completed a new environmental analysis checklist and Categorical Exclusion Determination for this regulation. The previously completed environmental analysis checklist and Categorical Exclusion Determination can be found at docket number USCG-2013-0081 at [www.regulations.gov](http://www.regulations.gov). We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.T07-0096 to read as follows:

§ 100.T07-0096 Special Local Regulation; Charleston Race Week, Charleston Harbor; Charleston, SC.

(a) Regulated Areas. The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) Race Area #1. All waters encompassed within an 800 yard radius of position 32°46'23"N, 79°55'11"W.

(2) Race Area #2. All waters encompassed within a 900 yard radius of position 32°45'54"N, 79°54'41"W.

(3) Race Area #3. All waters encompassed within a 900 yard radius of position 32°46'09"N, 79°53'52"W.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) Regulations. (1) Except for those person and vessels participating in the sailboat races, all persons and vessels are prohibited from entering, transiting through, anchoring in, or

remaining within any of the three regulated areas unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the regulated areas may contact the Captain of the Port Charleston by telephone at (843) 740-7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within any of the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Period. This rule will be enforced daily from 9 a.m. until 4:30 p.m. from April 11, 2014 through April 13, 2014.

Dated: March 19, 2014

R. R. Rodriguez  
Captain, U.S. Coast Guard  
Captain of the Port Charleston

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Date: 04/09/2014]